MINUTES OF THE MEETING OF THE
TECHNICAL ADVISORY COMMITTEE TO THE
SUBCOMMITTEE TO STUDY DOMESTIC AND MUNICIPAL WATER WELLS
(Assembly Bill 408, Chapter 636, *Statutes of Nevada 1999*)
April 24, 2000
Las Vegas, Nevada

The fourth meeting of the Technical Advisory Committee to the Subcommittee to Study Domestic and Municipal Water Wells (A.B. 408) was held on Monday, April 24, 2000, at 10 a.m., in Rooms 4412 B and C of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Pages 2 and 3 of these minutes contain the "Meeting Notice and Agenda."

TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT:

Roland Westergard, Carson City, Chairman
Bruce Hamilton, Las Vegas
John Hiatt, Las Vegas
Ferron Konakis, Elko
Bjorn Selinder, Fallon
R. Michael Turnipseed, Carson City
Steve Walker, Reno

TECHNICAL ADVISORY COMMITTEE MEMBER ABSENT:

Jay Bingham, Las Vegas
Kay Brothers, Las Vegas
Paula Brown, North Las Vegas
Don Dickson, Las Vegas
Tim Hafen, Pahrump

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Linda Eissmann, Senior Research Analyst, Research Division
Kimberly Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division
Sally Kennedy, Senior Research Secretary, Research Division

MEETING NOTICE AND AGENDA

Name of Organization:	Technical Advisory Committee to the Subcommittee to Study Domestic and Municipal Water Wells (Assembly Bill 408, Chapter 636, *Statutes of Nevada 1999*)

Date and Time of Meeting: Monday, April 24, 2000
10 a.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4412 B and C
555 East Washington Avenue
Las Vegas, Nevada

A G E N D A

I. Opening Remarks and Introductions
Roland Westergard, Chairman

*II. Approval of Minutes of the February 15, 2000, Meeting

*III. Action by the Technical Advisory Committee (TAC) on the Issue Previously Considered Pertaining to Water Conservation (Reference: Subsection 1 of *Nevada Revised Statutes* [NRS] 534.180)

*IV. Discussion and Possible Action on the Issue of "Protectible Interest" in Domestic Water Wells (Reference: NRS 533.024, 533.360, and 534.110)

A. Review of January 27, 2000, Letter by Congressman Jim Gibbons

B. Report of the Legislative History of Applicable Statutes by Legal Counsel

C. Report of Pertinent Information by TAC Members Hamilton, Turnipseed, and Walker

*V. Report and Possible Action on the Issue of Educating Owners of Water Wells
Steve Walker, Water Management Planner, Washoe County Water Resources

*VI. Report and Possible Action on Recommendations to Address the Issue of Water Quality and Water Quantity
Roland Westergard, Chairman
Linda Eissmann, Senior Research Analyst, Research Division, Legislative Counsel Bureau

*VII. Discussion of Issues Chosen by the TAC Remaining to be Reviewed and Selection of Procedures and Strategies to Address Those Issues
Roland Westergard, Chairman

VIII. Public Comment

IX. Future Meeting Schedule

X. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If

special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Kennedy at (775) 684-6825 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue.

OPENING REMARKS AND INTRODUCTIONS

Roland Westergard

Roland Westergard, Chairman, Carson City, Nevada, called the fourth meeting of the Technical Advisory Committee (TAC) to order at 10:05 a.m. He acknowledged the presence of representatives from the Southern Nevada Water Authority (SNWA) and the Wilderness Association. He invited TAC members to introduce guests. R. Michael Turnipseed, State Engineer, Carson City, introduced John Erwin, Manager of Water Policy, Resources, and Programs, Sierra Pacific, Reno, Nevada.

Chairman Westergard reiterated the goal of the TAC at this meeting is to make recommendations to the Subcommittee on remaining issues as indicated on the agenda.

APPROVAL OF MINUTES OF THE FEBRUARY 15, 2000, MEETING

MR. WALKER MOVED FOR APPROVAL OF THE MINUTES OF THE TECHNICAL ADVISORY COMMITTEE'S MEETING HELD ON FEBRUARY 15, 2000. THE MOTION WAS SECONDED BY MR. TURNIPSEED AND CARRIED UNANIMOUSLY.

ACTION BY THE TECHNICAL ADVISORY COMMITTEE (TAC) ON THE ISSUE PREVIOUSLY CONSIDERED PERTAINING TO WATER CONSERVATION (REFERENCE: SUBSECTION 1 OF *NEVADA REVISED STATUTES* [NRS] 534.180)

The TAC then discussed its action on the issue previously considered pertaining to water conservation. (Subsection 1 of NRS 534.180, "Applicability of chapter to wells used for domestic purposes; registration and plugging of wells used for domestic purpose.")

Chairman Westergard referred to Item No. 1.d. on the document titled "Issues for Consideration" (Exhibit A) and suggested that this item was outside the realm of the TAC. He said the statutory maximum limit of 1,800 gallons per day for an exemption as a domestic well was appropriate. He said a report to the Subcommittee would include a brief summary of the decision to change the 1,440 gallons to the current 1,800 gallons per day, along with an explanation of why the TAC had considered it and deemed it appropriate.

Steve Walker, Water Management Planner, Washoe County Water Resources, Reno, suggested that the summary to the Subcommittee include an explanation that individual jurisdictions such as counties, or towns with their own regional water planning, have the ability to assign a figure deemed appropriate to their areas up to and including 1,800 gallons per day.

MR. SELINDER MOVED TO ELIMINATE ITEM NO. 1.D. OF THE "ISSUES FOR CONSIDERATION" FROM FURTHER DISCUSSION WITH THE CAVEAT THAT INFORMATION WILL BE INCLUDED IN A REPORT TO THE SUBCOMMITTEE RECOGNIZING THE ABILITY OF LOCAL JURISDICTIONS TO SET A FIGURE NOT TO EXCEED 1,800 GALLONS PER DAY FOR DOMESTIC WELL USE. THE MOTION WAS SECONDED BY MR. HIATT AND CARRIED UNANIMOUSLY.

DISCUSSION AND POSSIBLE ACTION ON THE ISSUE OF "PROTECTIBLE INTEREST" IN DOMESTIC WATER WELLS (REFERENCE: NRS 533.024, 533.360, AND 534.110)

REVIEW OF JANUARY 27, 2000, LETTER BY CONGRESSMAN JIM GIBBONS

Chairman Westergard said the Legislative Committee specifically directed the TAC to consider Nevada Congressman Jim Gibbons' letter as an issue for further consideration (Exhibit B). He summarized the letter by saying a request was made to the 1993 Legislature to consider protection of all domestic well owners within the State of Nevada with reference to Senate Bill 19 (Chapter 631, *Statutes of Nevada 1993)*. Chairman Westergard asked the Advisory Committee's Legal Counsel for comment on the history of this legislation.

REPORT OF THE LEGISLATIVE HISTORY OF APPLICABLE STATUTES BY LEGAL COUNSEL

Kimberly Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), Carson City, referred to a portion of the legislative history of S.B. 19 (Exhibit C). Ms. Guinasso said the provisions in question were enacted in 1993 in S.B. 19. The bill began in the Senate Committee on Finance to authorize the Colorado River Commission to issue additional bonds to pay the costs of expanding certain facilities belonging to the water system. In the Assembly, provisions were added to allow the Las Vegas Water District to issue revenue bonds at the request of the SNWA. The Senate Committee on Finance however, did not concur with the Assembly amendment and the issue went to a Conference Committee. It was at that point that the provisions in question before the TAC were added. She stated that the record is silent as to legislative intent except for one comment by Assemblyman Val Garner who said,

> "The addition to NRS 534.110, subsection 5, is intended to make it clear that existing domestic wells are protected from unreasonable adverse affects caused by pumping from a subsequently drilled well. However, it is not intended to change or limit the State Engineer's authority to protect other types of wells from similar unreasonable adverse affects caused by pumping from a subsequently drilled well."

Ms. Guinasso reported that the LCB staff researched cases in which the provisions in question might have been construed, but found none. She pointed out that there are questions as to how the provisions of S.B. 19 are practically implemented and added that there is no case law on the subject. When statutory provisions are construed by a court, the legislative intent is not examined without evidence of ambiguity on the "face" of the bill. She said the provisions in S.B. 19 are clear on their face and a court would see them as written and interpret them accordingly.

Responding to comments by Bruce Hamilton, Member, Nevada Well Owners' Association, Las Vegas, Nevada, Ms. Guinasso reported S.B. 19 does not have any restrictions and the State Engineer can deny redrilling applications when the proposed water user is within a certain number of feet of municipally provided water provided the notification requirements were met.

Chairman Westergard introduced Jean Rice, representative from Congressman Jim Gibbons' office, Las Vegas, who commented on the importance of protecting the private property owner's interest in wells as southern Nevada's demand for water increases.

REPORT OF PERTINENT INFORMATION BY TAC MEMBERS HAMILTON, TURNIPSEED, AND WALKER

Bruce Hamilton, R. Michael Turnipseed, and Steve Walker

Sierra Pacific Representative, John Erwin, previously identified on page 4 of these minutes, reported how Sierra Pacific's policies addressed the practical application of the provisions of S.B. 19. He stated that Sierra Pacific drilled three new production wells in municipal areas of the Truckee Meadows, Nevada, in 1999. He listed the two factors used to determine a production well site:

1. The appropriate geology was considered in site selection to avoid higher concentrations of contaminants,

particularly arsenic. Information from the Washoe County Assessor's Office was used to notify nearby property and well owners.

2. The results from monitoring several shallow domestic wells within 2,500 feet of the projected production well site were used to demonstrate there would not be significant drawdowns (unless there is a drought year). Sierra Pacific's data demonstrated there was no impact on domestic well owners.

Mr. Erwin said he questioned the scientific basis used to determine the 2,500-foot radius of influence and noted that both the domestic well owner and the municipal supplier have property interest rights. He suggested a modification to the statute to include notification to the water purveyor when contaminants are found in shallow wells.

Mr. Erwin concluded by stating Sierra Pacific is in compliance with the current statute (NRS 534.110 "Rules and Regulations of State Engineer"); and is not involved in any litigation with any of the domestic wells within their sphere of influence for potential production well sites.

Responding to questions from the committee, Mr. Erwin said that although the latest Sierra Pacific production well site contained very few domestic wells in operation nearby, company policy made every effort to notify owners.

Responding to a comment by Mr. Walker, Mr. Erwin reported that Sierra Pacific production wells range in depth from 350 feet to 800 feet and draw water from the second of a three-layer aquifer. He said production wells are screened at the second and third layers and do not operate in the "unconfined layer" of the aquifer where most domestic wells draw water. Mr. Erwin said there was a lot of discourse regarding the vertical conductivity between the layers, but Sierra Pacific's data demonstrated that while there was some movement of water vertically, those velocities were very small which made the movement slow. The horizontal velocities were fairly large in all three layers. When Sierra Pacific wells go into production, the well column drops 20- to 100-feet, but the radial influence remains between two to five feet within 100-feet. Mr. Erwin said these figures demonstrate how the 2,500-foot rule was not based on science and suggested further investigation of this issue.

Committee members engaged in a discussion regarding the differences in Nevada's groundwater geology. Mr. Hamilton pointed out that testimony from Sierra Pacific was based on experience unlike the Las Vegas area, which he predicted would be more affected from a large commercial well operating within several hundred feet of a previously drilled domestic well.

Responding to a question from Chairman Westergard, Mr. Erwin said Sierra Pacific is obligated to supply pumping data annually to the State Engineer and also to supply data from the observation wells, which normally show no significant impact on domestic wells unless there is an unusual year.

Mr. Walker reported to the committee that production wells are typically in areas with a higher incidence of domestic wells. He said that Sierra Pacific is a city utility while Washoe County Water Resources is a suburban utility with a policy to deepen domestic wells. Because of the 2,500-foot provision in recent legislation, policy was refined to require a domestic well owner to demonstrate a 15-foot or more drawdown or a loss of production, before Washoe County Water Resources would deepen the well. He concluded that projections are made to consider the impact of a production well in a specific area through the use of groundwater modeling.

Ferron Konakis, Elko City Engineer, Elko, Nevada, gave a summary of the conditions in Elko and reported there are currently 7,000 water customers on the municipal water system and only a few wells required redrilling as a result of the recent legislation. In terms of notification, he said the rural nature of Elko forced a search beyond the 2,500-foot provision in order to locate enough domestic well owners. Mr. Konakis said that groundwater modeling, as a result of the wellhead protection plan, had generated more accurate areas of influence to ensure separation from private wells. He said he was in agreement with Sierra Pacific in the policy of drawing from deeper layers of water.

Mr. Hiatt pointed out that the law says "municipal, quasi municipal, and industrial" so it is not just the municipal providers, but potentially everybody other than the domestic well owner who could be affected by this if they are drilling a substantial well. Mr. Turnipseed said the largest wells in the state are irrigation wells and they are exempt.

Mr. Hiatt said that any number would be arbitrary when assigned to the radius for notification because of the varied

geology throughout the state. The threat to domestic wells in terms of the water table is not from municipal wells being drilled, but from other domestic wells. Mr. Hiatt stressed that S.B. 19 provided no benefit to domestic well owners.

Bjorn Selinder, Churchill County Manager, Fallon, Nevada, reported that citizens claimed interference with their artesian wells due to geothermal producers in the Stillwater area; however, their water is not potable. This is an usual case because the citizens have recourse under the current provision which protects their domestic wells despite the fact that the water is not consumed.

Mr. Turnipseed said that even geothermal water is a mineral resource and pointed out that the current statute for water appropriation provides that water, which is not consumed, does not require any filing with the State Engineer's office. He said that statute provides for reasonable lowering of the water table.

Mr. Walker stated TAC should not pursue a change in the law with regard to this issue because it was not large or onerous enough, and added that Washoe County does not consider it significant.

Mr. Turnipseed said the purpose of the notification was to invite the public into the publication protest period. A hearing was mandatory if a protest could not be worked out between a municipal purveyor drilling within the 2,500-foot radius of a domestic well owner.

Mr. Turnipseed pointed out that many of the new wells drilled today are a result of transferring existing rights and noted 1,700 protest applications. He noted his opposition to the drafting of this bill for three reasons: (1) there was no science behind the 2,500-foot rule; (2) there was no science behind the one-half cubic foot per second; and (3) it discriminated against municipal and quasi-industrial users while exempting irrigation users. He said the bill was flawed from its conception and despite attempts to make it work, it is clear it must be changed.

Responding to a comment by Mr. Hamilton, Chris Weiss, Management Services Manager, SNWA, Las Vegas, said SNWA's general position is in opposition to the proposed expansion of S.B. 19 to include Clark County. He stated that this is for reasons sited earlier in the meeting, comments by Mr. Hiatt, and larger issues, such as impacts caused by drawdowns between domestic and quasi municipal wells. He said that expanding the provision to include Clark County could result in neighbors in litigation with each other, and the person required to carry the administrative burden of litigation is typically the well owner with the permanent water right. Municipal purveyors, private individuals, and a number of other entities carry these nonrevocable rights. Community wells operate mostly under temporary permits and expanding or changing requirements like the zone of influence and notification creates a potential for litigation, which undermines the purpose of having a permit structure. He stated that SNWA opposed it during the 1999 Legislative Session and would continue to oppose it now.

Mr. Hamilton said that the Nevada Well Owners' Association was aware that SNWA opposed the expansion to counties with populations greater than 400,000, but said he wondered if these concerns would be realized if the cap was lifted. He pointed out that the only way to find out is to talk to people with knowledge about the science of hydrology and the history of cross impact between wells in this valley. He asked why the answer should rely on an arbitrary 2,500-foot notification or the more arbitrary rule to notify to two or three miles away if enough well owners cannot be found within 2,500-feet. He said the legislation is "on its face discriminatory" by offering protection to some residents of the State and not to others. He questioned if there was compelling public interest which makes it necessary to remove that protection from Clark County residents or if it is based on the fact that the people with the greatest ability to bear this burden have concerns which might not be realized if the legislation was changed.

Steve Walker pointed out that temporary domestic well permits do not need protection because the intent was to hook up to a municipal well system. Therefore, no mechanism to protect against drawdown was necessary because temporary well permits were issued in anticipation of hooking up.

Mr. Hamilton suggested the language should not mention a population ceiling but should read ". . . against a managed basis." He continued, saying elsewhere in the state, where domestic wells are eventually converted to municipal use, the costs do not reach a comparable figure for Clark County. He said that temporary well permits were drilled in anticipation of never hooking up to municipal systems and the only reason they have a temporary permit is in case municipal service does come into their area. Mr. Hamilton pointed out that the legislative language does not address the issues in southern Nevada.

Mr. Hiatt identified the people at greatest risk for losing their wells due to drawn downs live in the northwest area of the Las Vegas Valley where agriculture rights allow a well to be pumped to the limit of the permit without obligation to anyone in terms of notification or compensation. He told TAC members that he questioned extending this bill to Clark County because it would not accomplish anything for domestic well owners. He agreed with Mr. Turnipseed's assessment of the legislation and extending it to include Clark County would not be beneficial. He said the real issue is how to manage water basins and falling water tables.

Mr. Hamilton said he had looked for litigation which occurred subject to the passage of this legislation, and reported that there has not been a single lawsuit filed against anybody based upon the existence of the bill. He said the biggest problem for municipal providers was the 2,500-foot rule and suggested that modifying this figure to something more reasonable would increase the comfort level of domestic well owners not currently protected by this law.

Chairman Westergard noted that members of the audience were interested and opened the floor to their comments on this issue.

Robert Tretiak, Vice President, Nevada Well Owners' Association, Las Vegas, clarified for TAC members that the Nevada Well Owners' Association never participated in any debate on this particular section of the code but plan to debate it in 2001 Legislative Session and would ask the Subcommittee to make a recommendation on NRS 533.024. He said this is not an issue of cone of depression, 2,500-foot, or one-mile issue, but is simply that a Conference Committee at the last minute pushed the 400,000 population cap on Assemblyman Jim Gibbons. Mr. Tretiak said Congressman Gibbons told him that he fully intended to support removal of the 400,000 population cap during the next legislative session. Mr. Tretiak asked the members of the TAC to realize that Clark County residents do not get equal protection under state law and that a house has no property value without water servicing it. He said the Nevada Well Owners' Association requests a technical reason or explanation why Clark County residents are exempted from property rights and are being denied constitutional rights to equal protection under the law.

Chairman Westergard asked for the pleasure of the committee on how to proceed with this issue.

Mr. Hamilton suggested the following: (1) the TAC should invite a hydrogeologist to give scientific reasons why the bill should be changed; (2) the TAC should recommend amending it now; or (3) wait to hear more about it until a decision about changing the law can be made.

Mr. Hiatt said that this legislation is not accomplishing anything in the rest of the state at the moment and will accomplish nothing if extended to Clark County.

Mr. Hamilton responded that the legislation may be accomplishing at least a putative benefit in that some of these municipal purveyors are considering the location of their wells to minimally impact existing domestic wells.

Chairman Westergard asked members of the TAC to consider addressing the 2,500-foot diversion provision and reminded them of the directive to consider water wells.

Mr. Hamilton responded that the TAC should address the 2,500-foot rule but not to the extent that it creates needless work. He said he did not see any reason why the TAC could not ameliorate those provisions especially the need, in some cases, to reach out several miles until six wells were found for notification purposes. He recommended that the radius be reduced to a reasonable scientific radius.

Mr. Hiatt pointed out that the only way to address the radius issue would be from a scientific approach based upon the measured effects of the cone of depression for each individual well. He said the TAC cannot arbitrarily assign a number because it is a matter of permeability and how much water is pumped.

Mr. Turnipseed said there are only three criteria in NRS 533.70 used by the State Engineer to approve or deny an application and suggested possible rewording in the bill to include:

- The exemption for counties over than 400,000 be deleted.

- ". . . if the application is for a proposed well or change application to move water rights into an existing well."

- "Unreasonable drawdowns" replace the 2,500-feet rule. He questioned the ability of rural counties to reverse the figure or if they have the resources to predict the effect on wells a certain distance away.

Mr. Konakis reported that the City of Elko did not go to this extent, but had a policy of examining other wells in the area to determine drawdowns and cones of depression. He advised against making possible solutions too complicated due to the limited resources in rural communities. He said that there were limited hydrogeology experts familiar with the Elko Basin and cautioned against finding a complex solution that would force rural areas into seeking out these individuals.

Mr. Hamilton recommended that it be the responsibility of the State Engineer to tell applicants what the radius of influence was and leave the notification process up to the applicant. He added that the State Engineer's Office should not be held liable for any projected distances.

Mr. Walker questioned the value of whether a hydrographic basin, such as the Las Vegas Valley, be managed differently than the rest of the state. He said the basic question is whether or not the difference is a result of water problems caused by over drafting in the Las Vegas Valley. Mr. Hamilton replied that if Clark County was declared a "managed basin" it was automatically put it in a different status than the rest of the state.

Chairman Westergard pointed out that the cone of depression should be the responsibility of the applicant, and noted the two areas that will be impacted the most as far as implementation are Clark and Washoe Counties. He summarized previous member discussion and suggested new wording for the provision to read:

> ". . . the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is . . .within a distance from the proposed well that the applicant, to the satisfaction of the State Engineer, demonstrates will be within the area of the cone of depression of the proposed well."

The committee engaged in discussion regarding the cone of depression and the issue of seasonal versus year-round pumping. The purveyor would have the most information on the well's behavior and would operate under a parameter such as pumping a certain amount of acre-feet of water within a specified time frame. A time limitation could be imposed, based on per annum losses. The applicant would demonstrate these figures to the State Engineer to determine who would be notified based on which wells would be affected. However, this procedure could create confusion by the number of notices being sent out as a result of overlapping cones of depression. Another option might include hydrologic modeling to determine the net affect caused by a particular appropriation of water over the course of time. A concern was raised that well owners have no recourse because they were unaware of the initial level of their well. The well owner bears the burden of demonstrating the difference in water levels. It was suggested that local government and purveyors have a policy to deal with this issue instead of relying on specifics.

Mr. Konakis reported that Elko incorporates pump testing on area wells to determine the influences, as well as monitoring private wells. He added that simplicity in laws and regulations should be the standard so everyone can interpret them. He suggested a measurement using both distance and an equation to determine a reasonable distance that is flexible and dependent upon wells in the vicinity.

Chairman Westergard said the bill should identify a specific distance unless the applicant could demonstrate to the satisfaction of the State Engineer that the cone of influence is less. A reasonable threshold should not be chosen arbitrarily without scientific basis. He asked Legal Counsel to draft a proposal to address the following issues for the purposes of discussion with the following language:

- Replace the 2,500-foot rule with a 1000-foot rule unless the applicant can demonstrate to the satisfaction of the State Engineer that a lesser distance will not result in undue impacts on existing depression cones.

- Delete the reference to the 400,000 population cap.

- Delete the reference to notify a minimum of six well owners.

Mr. Hamilton suggested additional language saying a person cannot take the State to court without benefit of a conflict hearing through the State Engineer's Office first.

Committee members engaged in a discussion about a legal mechanism to mandate that large water users cannot dry up neighboring wells. Mr. Hamilton pointed out that mandating large water users to be responsible while offering a consequence would lessen the practice drying up of nearby wells. Mr. Turnipseed said the application is subject to protest at any point, and S.B. 19 gives additional notice to well owners within 2,500 feet of a municipal well that will pump more than one-half second a foot of water.

Chairman Westergard invited Mr. Erwin to attend the next TAC meeting to present data on Sierra Pacific's observation wells, specifically: (1) impacts on the observation wells from the production wells; and (2) the distance of the observation wells from the production wells. The data would be useful for the Truckee Meadows groundwater model, but may not be applicable for Elko County or the Las Vegas area.

MR. WALKER MOVED TO DIRECT LEGAL COUNSEL TO PREPARE A BILL DRAFT, FOR DISCUSSION AT THE NEXT MEETING, WHICH: (1) DELETES THE REFERENCE TO THE 400,000 CAP; (2) REPLACES THE CURRENT 2,500-FOOT RULE WITH A 1,000-FOOT RULE UNLESS THE APPLICANT CAN DEMONSTRATE TO THE SATISFACTION OF THE STATE ENGINEER THAT A NOTIFICATION RADIUS OF LESS THAN 1,000- FEET WOULD NOT RESULT IN UNDUE IMPACTS ON SURROUNDING WELLS; AND (3) DELETES THE REFERENCE TO THE SIX-WELLS NOTIFICATION REQUIREMENT. THE MOTION WAS SECONDED BY MR. HIATT AND CARRIED UNANIMOUSLY.

REPORT AND POSSIBLE ACTION ON THE ISSUE OF EDUCATING OWNERS OF WATER WELLS

Steve Walker

Steve Walker, previously identified on page 4 of these minutes, reported to TAC members that Cooperative Extension provided him with information specific to domestic wells. He reported that a wealth of information on domestic wells was also available on the Internet. Mr. Walker said the issue should focus on the distribution of existing domestic well information to interested parties and acknowledged that counties with populations over 400,000 would have a unique set of information relative to the rest of the state.

Mr. Walker recommended that the TAC advertise the existence of current information sources and fund the development of an address list of domestic well owners in the state for the purpose of sending them information. He said that the only way to get the information to individual well owners is to mail it directly to them.

Mr. Turnipseed reported the eminent publication of a new brochure from the State Engineer's Office and a new Web site. He agreed that gathering all the existing information would be more effective than developing it.

Mr. Hiatt pointed out that present and future well owners are the two groups who need to be educated and added that the present well owners are the most problematic.

Mr. Turnipseed said that legislation is not needed to educate well owners, and he suggested obtaining a bibliography of information from Cooperative Extension.

MR. WALKER MOVED THAT HE PREPARE A BIBLIOGRAPHY OF DOMESTIC WELL INFORMATION FROM COOPERATIVE EXTENSION FOR THE REVIEW AT THE TECHNICAL ADVISORY COMMITTEE'S NEXT MEETING. FURTHER, THAT COOPERATIVE EXTENSION BE REQUESTED TO MAKE A RENEWED EFFORT AT DISSEMINATING INFORMATION ON DOMESTIC WELLS STATEWIDE. THE MOTION WAS SECONDED BY MR. HAMILTON AND CARRIED UNANIMOUSLY.

Mr. Turnipseed announced that the Las Vegas Office of the State Engineer would make a presentation on domestic well owners water use at the TAC's next meeting. Specifically, the presentation would address the issue of whether or not domestic well owners use more water than their municipal water counterparts, and would make other relevant comparisons.

REPORT AND POSSIBLE ACTION ON RECOMMENDATIONS TO ADDRESS THE ISSUE OF WATER QUALITY AND WATER QUANTITY

Chairman Westergard stated that the transcript from presentations given at the March 20, 2000, TAC meeting, by Mr. Turnipseed, the Environmental Protection Agency, and the Health Division would serve to formulate ideas for consideration by the TAC. He said that he reviewed the comprehensive state groundwater protection program and identified 35 to 37 sub issues on quantity versus quantity. He advised the TAC of the need to refine previous suggestions including how broad or general the scope would be.

MR. TURNIPSEED MOVED TO DIRECT LCB STAFF TO PURSUE THE ISSUE OF WATER QUANTITY VERSES QUALITY IN MORE DETAIL WITH REPRESENTATIVES OF THE STATE AGENCIES THAT OVERSEE PERTINENT LAWS AND REGULATIONS, IN AN EFFORT TO DETERMINE SPECIFIC RECOMMENDATIONS TO ADDRESS THIS ISSUE. THE MOTION WAS SECONDED BY MR. WALKER AND CARRIED UNANIMOUSLY.

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DISCUSSION OF ISSUES CHOSEN BY THE TAC REMAINING TO BE REVIEWD AND SELECTION OF PROCEDURES AND STRATEGIES TO ADDRESS THOSE ISSUES

Chairman Westergard referred to a document of issues for consideration (Exhibit A) and led the committee in a discussion:

In reference to Item No. 2.f., Mr. Weiss, previously identified on page 8 of these minutes, explained how SNWA assistance guidelines applied for mandatory and voluntary connections. He reiterated the provisions of the SNWA's financial assistance program and reported there are 10 mandatory and 10 to 15 voluntary hookups scheduled. For both mandatory and voluntary connections, 85 percent funding is provided for off-site costs, and a $500 credit is provided for on-site. If funding is not available for 85 percent at some future date, a minimum of 50 percent will be guaranteed. He said there is a provision allowing the General Manager the authority to "waiver adjust" under unusual circumstances but it would take an act from the SNWA's Board of Directors to change the current guidelines of providing funding at 85 percent. He said the SNWA's approach to the 1999 Legislature incorporated a time payment program and not a grant program.

Mr. Hamilton observed that the SNWA had demonstrated its willingness to put its own floor of 50 percent on this issue and suggested that TAC consider amending the legislation to put a state floor of 50 percent on as an insurance policy. He said the intent of the Legislature was that there was not meaningful financial assistance available. He said that if the funding was not there to accommodate at least 50 percent then the owner should be allowed to keep the well until financial assistance is available. Mr. Hamilton noted that as legislation stands now, the State Engineer cannot force a domestic well owner onto municipal service if there is not financial assistance available, but under current law, that financial assistance could be as little as one dollar.

Mr. Weiss refuted Mr. Hamilton's remark and stated that the financial assistance program is a standing item approved by the SNWA Board of Directors and they are bound by it, barring further action from that Board of Directors.

Mr. Hamilton said he did not see any reason why additional insurance should not be put into law. He said that under this circumstance, if funding was not available to support even 50 percent, then people would be protected from being forced off their wells just because there is not sufficient money to pay the cost.

Mr. Walker commented on the danger of a local financial assistance program becoming a statewide issue. Mr. Hamilton pointed out that it already was and said that the necessity for this financial assistance arose as a local issue, but it was only enabled through state legislation, and now we should rely on that same state legislation to perfect it.

Mr. Walker said he questioned how the financial assistance program was applicable as a statewide issue. Mr. Hamilton said the *Nevada Revised Statutes* contain many local issues enacted into state law because of a lack of "home rule."

Chairman Westergard noted Mr. Walker's concern and suggested that the SNWA give the TAC a letter reaffirming its commitment to the funding levels described by Mr. Weis.

Mr. Hamilton said he was concerned that if funding was not available for the proposed 85 percent, then SNWA would provide its own self-imposed floor of 50 percent, but questioned what would happen if adequate funding was not available for the 50 percent. Would they offer less, or not extend the financial assistance program? If the funding is not available to support the 50 percent, a situation occurs where the individual well owner is unreasonably financially impacted with no recourse.

Mr. Weiss responded to Mr. Hamilton's projected scenario by reassuring the committee that the SNWA's basic intent in drafting the guidelines was such that if money was not available for financial assistance, then the State Engineer would not be able to mandate a connection. He said that the guidelines were the principles upon which the financial assistance program would be managed and administered and said he would approach SNWA's executive team and Board of Directors to request a letter drafted to the TAC reasserting the commitment to the financial assistance program.

Mr. Turnipseed said it was an onerous task to get the SNWA Board of Directors to draft and pass this measure and recommended that they amend the provision to a smaller number similar to 35 percent. He asked Mr. Weiss what would happen if funds are exhausted. Mr. Weiss said subsequent well owners would be allowed to redrill and that mandatory cases have priority overall voluntary cases.

Mr. Hamilton said that an adversarial relationship was being played out between the well owners, represented in large part by the Nevada Well Owners' Association, and the SNWA. He said that in order to get meaningful legislation passed, it required hours of testimony before legislative committees, and a lot of money and time spent traveling in order to try and overcome the opposition from the representatives of the SNWA. Mr. Hamilton said he did not impugn the veracity of the SNWA insofar as to say that they made a promise and now intend to break it, but he would look for the same kind of "trust that verifies" assurances. He said that well owners want the choice of whether to redrill, or hook up, and that those choices be based on the soundest economics and not on the black and white dividing line of an entity's reasoning of ". . . because we said so."

Mr. Tretiak, previously identified on page 10 of these minutes, made the following points:

- To answer Mr. Walker's question, Mr. Tretiak explained that the grant money in A.B. 237 is primarily state grant money, making this a state issue.

- Given the benefit of SNWA's study, experience, and affirmation of what they see is a minimal amount put into the guidelines, well owners are asking for 50 percent to parallel that figure. He said this is not a question of trust, but rather an affirmation of what the SNWA is saying is now possible.

Mr. Weiss corrected Mr. Tretiak's report explaining that A.B. 237 was intended to create grants to pay for conservation initiatives, such as the lining of irrigation canals, so the primary focus was on irrigation districts. The SNWA viewed this as negotiations between Senators Mark James and Jon C. Porter and the well owners. At present, there is still no funding available. He said that A.B. 237 was viewed by the SNWA as an alternative supplemental financial resource.

Mr. Walker cautioned against using flawed logic in assuming that everything under A.B. 237 falls within the jurisdiction of the State.

Chairman Westergard said he was concerned about recommending to the Legislature that they make a change for a provision which expires in the year 2005. He said the SNWA took the issue under advisement and pledged good faith through adoption of the procedures. He said that insurance is not necessary or appropriate in this case.

MR. WALKER MOVED THAT THIS ISSUE BE POSTPONED UNTIL MORE REPRESENTATION FROM THE SOUTHERN NEVADA WATER AUTHORITY WAS PRESENT AT A FUTURE MEETING OF THE TAC. THE MOTION WAS SECONDED BY MR. HAMILTON AND CARRIED UNANIMOUSLY.

Regarding Item No. 2.a., notification of perspective buyers, Linda Eissmann, Senior Research Analyst, Research Division, LCB, reported that the Subcommittee did not have a preferred suggestion on this item, but clearly viewed it as a high priority. Senator Maggie Carlton suggested at the last meeting of the Subcommittee to Study Domestic and Municipal Water Wells on January 28, 2000, an inclusion of the notification issue in the real estate training certification program. The issue about temporary permits could be included there. Senator Porter thought an expansion on the real estate agent's disclosure form regarding the water source should be considered. Assemblywomen Von Tobel expressed concerns about consistency in testing and certifying both septic systems and wells when a home is sold.

Regarding Item No. 2.d., notification of hookup costs, Mr. Hiatt suggested adding language to explain costs. He pointed out that since the affidavit process had been objected to, anything owners read, understand, and signed off on would be an advantage in the long run. He said that people need to understand from the beginning that there are costs and risks associated with becoming a private domestic well owner.

MR. WALKER MOVED THAT THE TECHNICAL ADVISORY COMMITTEE REPORT TO THE LEGISLATIVE SUBCOMMITTEE THE SUGGESTION THAT THE STATE ENGINEER CONSIDER THE FOLLOWING TO THE AFFIDAVIT HIS OFFICE FILES WITH THE COUNTY RECORDER: THERE WILL BE SIGNIFICANT COSTS INVOLVED WITH THE HOOKUP AND APPROPRIATE WATER AUTHORITIES SHOULD BE CONTACTED FOR ESTIMATES OF THESE COSTS. THE MOTION WAS SECONDED BY MR. SELINDER AND CARRIED UNANIMOUSLY.

Mr. Walker noted for the record that the TAC was not going to make recommendations to modify or add to the real estate agent's disclosure form, but to enhance the information appearing on the title report. Mr. Hamilton advised the TAC against adding modifications to the current real estate form, because it was outside the scope of the TAC.

Regarding Item No. 2.a., Mr. Hiatt said that certifying a well is a vital issue, and it is not the intent to make it impossible to sell property served by a domestic well. He suggested that the following information be provided to a prospective property buyer: (1) The property they are buying has a domestic well, or other well; (2) there are applicable state rules to wells; and (3) there are no guarantees regarding the future availability of water of sufficient quantity or quality. He said that this short but succinct type of statement would encourage individuals to contact the appropriate agencies for more information on domestic wells. He said this should not become an onerous process that property cannot be sold. Responding to a suggestion from Mr. Hamilton, Mr. Hiatt said that most people do not have a good understanding about wells and even less understanding about a driller's report, adding that a driller's report does not guarantee the availability of future water supplies, or address quality of water.

Jim Donahue, Realtor, Las Vegas, identified himself as a real estate agent and a member of the Nevada Well Owners' Association Board of Directors, and stated that it is the responsibility of the seller for making the disclosure, not the real estate agent. He advised against the TAC pushing for changes to the present form saying real estate agents are ". . . absolutely immune to actually having to take any responsibility for what is said on a property." He pointed out that the standard real estate packet is 85 pages long in the typical transaction and the actual contract is six- pages of small type. He predicted that real estate agents would not enter into any type of a discussion about water wells with a client. He said that temporary permits would be treated as permanent permits by the real estate community because realtors are more interested in numbers and sales. Mr. Donahue said no real estate agent is going to volunteer the fact that a well is on a temporary permit. He advised the TAC to recommend to the Legislature that involving real estate agents in the disclosure of well status ". . .is not going to happen." Responding to a question from Chairman Westergard, Mr. Donahue said he did not have any suggestions for informing owners of the condition of their wells.

Mr. Donohue said that the TAC was addressing an issue that the real estate profession was reluctant to participate in,

because of the issue of liability and potential for making a property unsaleable. He concluded by advising against any real hard notification because it would make well properties unsaleable, and not to look to the real estate community for support on this issue because ". . .we are not going to do it."

Ray Preston, President, Nevada Well Owners' Association, said there are owners who will not recognize that the State has a right to their wells. He said that the public was unaware of the costs associated with revocable wells until the price rose to $20,000 and the situation seemed hopeless. He agreed that attempts to locate, notify, and educate well owners were justified, but he had encountered many roadblocks in requesting a list. He said the Nevada Well Owners' Association was in favor of the $30 fee per well currently being charge by SNWA and in trying to reach well owners to spread support for this effort. He added that the Water District's grant was appreciated and pointed out that any well after October 1, 1999, or any vacant lot would not quality. He said he has spoken to Senator Ann O'Connell at length on A.B. 237 and said the wording of ". . . up to 85 percent" is with the stipulation that the actual amount would be determined by the granting organization or office.

Robert Tretiak, previously identified on page 10 of these minutes, said that disclosure on wells was needed to advise well owners on the status of their well. He said well owners should be advised of all necessary disclosures when selling the land, and they should be educated as good citizens on the aquifer.

Chairman Westergard asked Mr. Hiatt to take the lead on Item No. 2.a. He said Item No. 2.e., the sunset provision, and Item No. 2.f. the 85 percent grant fund language modification, will be continued for discussion at the next meeting, and assigned Item No. 2.b., the revocation of temporary permits, and Item No. 2.c., change needed in Nevada's water law, to Kay Brothers and the SNWA.

PUBLIC COMMENT

There was no comment from the public.

FUTURE MEETING SCHEDULE

The fifth meeting of the Technical Advisory Committee to the Subcommittee to Study Domestic and Municipal Water Wells will be held on Thursday, May 25, 2000, at 9:30 a.m., in Rooms 4412 B and C, in the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:25 p.m. Exhibit D is the "Attendance Record" for the meeting.

Respectfully submitted,

Sally Kennedy
Senior Research Secretary

Linda Eissmann
Senior Research Analyst

APPROVED BY:

_____
Roland Westergard, Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A is a four-page document dated April 24, 2000, titled "Issues for Consideration," submitted by Linda Eissmann, Senior Research Analyst, Research Division, Legislative Counsel Bureau, Carson City.

Exhibit B is a one-page copy of a letter dated January 27, 2000, from Congressman Jim Gibbons to Chairman Rhoads and the Water Wells Subcommittee, submitted by Chairman Westergard, Carson City.

Exhibit C is 50-page document dated March 3, 2000, containing the Legislative History of Senate Bill 19 (Chapter 631, *Statutes of Nevada 1993*), submitted by Kimberly Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, and prepared by the Research Library.

Exhibit D is the "Attendance Record" for the meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Research Library at (775) 684-6827.